

**ASSEMBLY BILL**

**No. 1753**

**Introduced by Committee on Governmental Organization  
(Jerome Horton (Chair), Plescia (Vice Chair), Aghazarian,  
Bermudez, Calderon, Chavez, Coto, Levine, Liu, Torrico, and  
Yee)**

March 9, 2005

---

An act to amend Sections 19854 and 19984 of the Business and Professions Code, and to amend Sections 330.9, 332, 337a, 337d, 337j, and 337z of the Penal Code, relating to gambling.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as introduced, Committee on Governmental Organization. Gambling.

(1) The Gambling Control Act regulates the business of gambling within California and specifically requires every key employee, as defined, to apply for and obtain a key employee license. Pursuant to that act, a person is prohibited from being issued a key employee license unless that person is a California resident.

This bill would delete that restriction on obtaining a license.

(2) The Gambling Control Act provides for the licensure and regulation of proposition player services by the California Gambling Control Commission.

This bill would make minor revisions to provisions addressing the authority of a licensed gambling establishment to enter into contracts with 3rd parties for proposition player services.

(3) Existing law defines and regulates gaming, and further prohibits the transport and possession of slot machines, unless for purposes of display at trade shows and if the machine is inoperable.

This bill would add use as a prop for movies or television as an exemption, permitting the transport and possession of slot machines,

and would provide that the exemption applies if the machine is inoperable or is set on “demonstration” mode.

(4) Existing law prohibits persons from engaging in specified unlawful gambling activities, including fraudulently obtaining money or property from another person by the game of 3 card monte or other games, pool selling or bookmaking, or attempting to influence the outcome of sporting events or contests, among other offenses. Existing law specifies the penalties for each of those offenses and makes them punishable by imprisonment or by fine, or both.

This bill would revise the penalties for each of those offenses, and would set maximum and minimum fine amounts for each violation. The bill would also make technical, nonsubstantive changes to those provisions.

By changing the penalties of various gambling crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 19854 of the Business and Professions
- 2 Code is amended to read:
- 3 19854. (a) Every key employee shall apply for and obtain a
- 4 key employee license.
- 5 (b) Licenses issued to key employees shall be for specified
- 6 positions only, and those positions shall be enumerated in the
- 7 endorsement described in subdivision (b) of Section 19851.
- 8 (c) No person may be issued a key employee license unless the
- 9 person would qualify for a state gambling license.
- 10 ~~(d) No person may be issued a key employee license unless~~
- 11 ~~the person is a resident of this state.~~
- 12 SEC. 2. Section 19984 of the Business and Professions Code
- 13 is amended to read:

1 19984. Notwithstanding any other provision of law, a  
2 licensed gambling establishment ~~may contract with a third party~~  
3 ~~for the purpose of providing proposition player services, subject~~  
4 ~~to the following conditions~~ *shall not allow a third party to*  
5 *provide proposition players in the gambling establishment*  
6 *without first entering into a contract as prescribed below:*

7 (a) Any agreement, contract, or arrangement between a  
8 gambling establishment and a third-party provider of proposition  
9 ~~player services~~ *players* shall be approved in advance by the  
10 division, and in no event shall a gambling establishment or the  
11 house have any interest, whether direct or indirect, in funds  
12 wagered, lost, or won.

13 (b) The commission shall establish reasonable criteria for, and  
14 require the licensure and registration of, any person or entity that  
15 provides proposition ~~player services~~ *players* to gambling  
16 establishments pursuant to this section, including owners,  
17 supervisors, and players. Those employed by a third-party  
18 provider of proposition ~~player services~~ *players*, including  
19 owners, supervisors, observers, and players, shall wear a badge  
20 which clearly identifies them as proposition players whenever  
21 they are present within a gambling establishment. The  
22 commission may impose licensing requirements, disclosures,  
23 approvals, conditions, or limitations as it deems necessary to  
24 protect the integrity of controlled gambling in this state, and may  
25 assess and collect reasonable fees and deposits as necessary to  
26 defray the costs of providing this regulation and oversight.

27 (c) The division, pursuant to regulations of the commission, is  
28 empowered to perform background checks, financial audits, and  
29 other investigatory services as needed to assist the commission in  
30 regulating third party providers of proposition ~~player services~~  
31 *players*, and may assess and collect reasonable fees and deposits  
32 as necessary to defray the costs of providing this regulation and  
33 oversight. The division may adopt emergency regulations in  
34 order to implement this subdivision.

35 (d) No agreement or contract between a licensed gambling  
36 establishment and a third party concerning the provision of  
37 proposition ~~player services~~ *players* shall be invalidated or  
38 prohibited by the division pursuant to this section until the  
39 commission establishes criteria for, and makes determinations

1 regarding the licensure or registration of, the provision of ~~these~~  
2 ~~services proposition players~~ pursuant to subdivision (b).

3 SEC. 3. Section 330.9 of the Penal Code is amended to read:

4 330.9. (a) Notwithstanding Sections 330a, 330b, 330.1 to  
5 330.5, inclusive, or any other provision of law, it shall be lawful  
6 for any person to transport and possess any slot machine or  
7 device for display at a trade show, conference, or convention  
8 being held within this state, *or if used solely as a prop for a*  
9 *motion picture, television, or video production.*

10 (b) Subdivision (a) shall apply only if the slot machine or  
11 device is adjusted to render the machine or device inoperable, *or*  
12 *if the slot machine or device is set on demonstration mode.*

13 (c) This section is intended to constitute a state exemption as  
14 provided in Section 1172 of Title 15 of the United States Code.

15 (d) For purposes of this section, “slot machine or device” has  
16 the same meaning as “slot machine or device” as defined in  
17 Section 330.1, or “gambling device” as defined in paragraph (1)  
18 of subsection (a) of Section 1171 of Title 15 of the United States  
19 Code.

20 SEC. 4. Section 332 of the Penal Code is amended to read:

21 332. (a) Every person who by the game of “three card  
22 monte,” so-called, or any other game, device, sleight of hand,  
23 pretensions to fortune telling, trick, or other means whatever, by  
24 use of cards or other implements or instruments, or while betting  
25 on sides or hands of any play or game, fraudulently obtains from  
26 another person money or property of any description, shall ~~be~~  
27 ~~punished as in case of larceny of property of like value for the~~  
28 *first offense be punishable by imprisonment in a county jail for a*  
29 *period of not more than one year or in the state prison, and by a*  
30 *fine of not less than two thousand five hundred dollars (\$2,500)*  
31 *nor more than ten thousand dollars (\$10,000). A second offense*  
32 *of this section is punishable by imprisonment in a county jail for*  
33 *a period of not more than one year or in the state prison, and by*  
34 *a fine of not less than five thousand dollars (\$5,000) nor more*  
35 *than ten thousand dollars (\$10,000).*

36 (b) For the purposes of this section, “fraudulently obtains”  
37 includes, but is not limited to, cheating, including, for example,  
38 gaining an unfair advantage for any player in any game through a  
39 technique or device not sanctioned by the rules of the game.

(c) For the purposes of establishing the value of property under this section, poker chips, tokens, or markers have the monetary value assigned to them by the players in any game.

SEC. 5. Section 337a of the Penal Code is amended to read:

337a. (a) Every person;

~~1. Who engages in pool~~ *who engages in one of the following offenses, shall be punished for a first offense by imprisonment in a county jail for a period of not more than one year or in the state prison, and by a fine of not less than two thousand five hundred dollars (\$2,500) nor more than ten thousand dollars (\$10,000):*

(1) *Pool selling or bookmaking, with or without writing, at any time or place;*~~or~~

~~2. Who, whether.~~

(2) *Whether for gain, hire, reward, or gratuitously, or otherwise, keeps or occupies, for any period of time whatsoever, any room, shed, tenement, tent, booth, building, float, vessel, place, stand or enclosure, of any kind, or any part thereof, with a book or books, paper or papers, apparatus, device or paraphernalia, for the purpose of recording or registering any bet or bets, or any purported bet or bets, or wager or wagers, or any purported wager or wagers, or of selling pools, or purported pools, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man person or beast animal, or between men persons, beasts animals, or mechanical apparatus, or upon the result, or purported result, of any lot, chance, casualty, unknown or contingent event whatsoever;*~~or~~

~~3. Who, whether.~~

(3) *Whether for gain, hire, reward, or gratuitously, or otherwise, receives, holds, or forwards, or purports or pretends to receive, hold, or forward, in any manner whatsoever, any money, thing or consideration of value, or the equivalent or memorandum thereof, staked, pledged, bet or wagered, or to be staked, pledged, bet or wagered, or offered for the purpose of being staked, pledged, bet or wagered, upon the result, or purported result, of any trial, or purported trial, or contest, or purported contest, of skill, speed or power of endurance of man person or beast animal, or between men persons, beasts animals, or mechanical apparatus, or upon the result, or purported result,*

1 of any lot, chance, casualty, unknown or contingent event  
2 whatsoever;~~or~~

3 ~~—4. Who, whether.~~

4 (4) *Whether* for gain, hire, reward, or gratuitously, or  
5 otherwise, at any time or place, records, or registers any bet or  
6 bets, wager or wagers, upon the result, or purported result, of any  
7 trial, or purported trial, or contest, or purported contest, of skill,  
8 speed or power of endurance of ~~man person~~ or ~~beast animal~~, or  
9 between ~~men persons~~, ~~beasts animals~~, or mechanical apparatus,  
10 or upon the result, or purported result, of any lot, chance,  
11 casualty, unknown or contingent event whatsoever;~~or~~

12 ~~—5. Who, being.~~

13 (5) *Being* the owner, lessee or occupant of any room, shed,  
14 tenement, tent, booth, building, float, vessel, place, stand,  
15 enclosure or grounds, or any part thereof, whether for gain, hire,  
16 reward, or gratuitously, or otherwise, permits ~~the same~~ *that space*  
17 to be used or occupied for any purpose, or in any manner  
18 prohibited by ~~subdivision 1, 2, 3 or 4 of this section; or~~

19 ~~—6. Who lays paragraph (1), (2), (3), or (4).~~

20 (6) *Lays*, makes, offers or accepts any bet or bets, or wager or  
21 wagers, upon the result, or purported result, of any trial, or  
22 purported trial, or contest, or purported contest, of skill, speed or  
23 power of endurance of ~~man person~~ or ~~beast animal~~, or between  
24 ~~men persons~~, ~~beasts animals~~, or mechanical apparatus;~~is~~  
25 ~~punishable by imprisonment in the county jail for a period of not~~  
26 ~~more than one year or in the state prison.~~

27 ~~(a)–~~

28 (b) In any accusatory pleading charging a violation of this  
29 section, if the defendant has been once previously convicted of a  
30 violation of any subdivision of this section, the previous  
31 conviction shall be charged in the accusatory pleading, and, if the  
32 previous conviction is found to be true by the jury, upon a jury  
33 trial, or by the court, upon a court trial, or is admitted by the  
34 defendant, the defendant shall, if he *or she* is not imprisoned in  
35 the state prison, be imprisoned in the county jail for a period of  
36 not more than one year ~~or and~~ pay a fine of not less than five  
37 ~~hundred dollars (\$500) thousand dollars (\$5,000) nor more than~~  
38 ~~five thousand dollars (\$5,000), or be punished by both such fine~~  
39 ~~and imprisonment ten thousand dollars (\$10,000).~~ Nothing in  
40 this paragraph shall prohibit a court from placing ~~such~~ a person

1 *subject to this subdivision on probation, provided, however,*  
2 *However, that such person shall be required to pay a fine of not*  
3 *less than five hundred dollars (\$500) thousand dollars (\$5,000)*  
4 *nor more than five thousand dollars (\$5,000) or to ten thousand*  
5 *dollars (\$10,000) and be imprisoned in the county jail for a*  
6 *period of not more than one year as a condition thereof. In no*  
7 *event does the court have the power to absolve a person*  
8 *convicted hereunder pursuant to this subdivision from either*  
9 *being imprisoned or and from paying a fine of not less than five*  
10 *hundred dollars (\$500) thousand dollars (\$5,000).*

11 ~~(b)~~

12 (c) In any accusatory pleading charging a violation of this  
13 section, if the defendant has been previously convicted two or  
14 more times of a violation of any subdivision of this section, each  
15 ~~such~~ previous conviction shall be charged in the accusatory  
16 pleadings; ~~and if. If~~ two or more of ~~such the~~ previous convictions  
17 are found to be true by the jury, upon a jury trial, or by the court,  
18 upon a court trial, or are admitted by the defendant, the defendant  
19 shall, if he *or she* is not imprisoned in the state prison, be  
20 imprisoned in the county jail for a period of not more than one  
21 year ~~or and~~ pay a fine of not less than ~~one thousand dollars~~  
22 ~~(\$1,000) seven thousand five hundred dollars (\$7,500)~~ nor more  
23 than five thousand dollars (\$5,000), ~~or be punished by both such~~  
24 ~~fine and imprisonment fifteen thousand dollars (\$15,000).~~  
25 Nothing in this paragraph shall prohibit a court from placing ~~such~~  
26 a person *subject to this subdivision on probation, provided,*  
27 ~~however. However,~~ that ~~such~~ person shall be required to pay a  
28 fine of not less than ~~one thousand dollars (\$1,000)~~ *seven*  
29 *thousand dollars (\$7,000)* nor more than ~~five thousand dollars~~  
30 ~~(\$5,000) or to fifteen thousand dollars (\$15,000) and shall be~~  
31 imprisoned in the county jail for a period of not more than one  
32 year as a condition thereof. In no event does the court have the  
33 power to absolve a person convicted ~~hereunder and subject to~~  
34 *this subdivision from either* being imprisoned ~~or and~~ from paying  
35 a fine of not less than ~~one thousand dollars (\$1,000)~~ *seven*  
36 *thousand five hundred dollars (\$7,500).*

37 (d) Except where the existence of a previous conviction of any  
38 subdivision of this section was not admitted or not found to be  
39 true pursuant to this section, or the court finds that a prior

1 conviction was invalid, the court shall not strike or dismiss any  
2 prior convictions alleged in the information or indictment.

3 (e) This section ~~shall apply~~ *applies* not only to persons who  
4 ~~may~~ commit any of the acts designated in ~~subdivisions 1 to 6~~  
5 ~~inclusive of this section~~ *paragraphs (1) to (6), inclusive, of*  
6 *subdivision (a)*, as a business or occupation, but ~~shall also apply~~  
7 *applies* to every person ~~or persons who may do~~ in a single  
8 instance *engages in* any one of the acts specified in ~~said~~  
9 ~~subdivisions 1 to 6~~ *paragraphs (1) to (6), inclusive, of*  
10 *subdivision (a)*.

11 SEC. 6. Section 337d of the Penal Code is amended to read:

12 337d. Any person who gives, ~~or~~ offers to give, ~~or~~ promises to  
13 give, or attempts to give, any money, bribe, or thing of value to  
14 any person who is umpiring, managing, directing, refereeing,  
15 supervising, judging, presiding, or officiating at, or who is about  
16 to umpire, manage, direct, referee, supervise, judge, preside, or  
17 officiate at any sporting event, contest, or exhibition of any kind  
18 whatsoever, ~~and specifically including, but without being~~  
19 *including, but not limited to, such* sporting events, contests, and  
20 exhibitions *such as* baseball, football, boxing, ~~horseracing~~ *horse*  
21 *racing*, and wrestling matches, with the intention or agreement or  
22 understanding that ~~such~~ the person shall corruptly or dishonestly  
23 umpire, manage, direct, referee, supervise, judge, preside, or  
24 officiate at, any ~~such~~ sporting event, contest, or exhibition, or the  
25 players or participants thereof, with the intention or purpose that  
26 the result of the sporting event, contest, or exhibition will be  
27 affected or influenced thereby, is guilty of a felony and shall be  
28 punished by imprisonment in the state prison, ~~or~~ and by a fine  
29 ~~not exceeding of not less than~~ five thousand dollars (\$5,000), ~~or~~  
30 ~~by both such fine and imprisonment nor more than ten thousand~~  
31 *dollars (\$10,000). A second offense of this section is a felony and*  
32 *shall be punished by imprisonment in the state prison and by a*  
33 *fine of not less than seven thousand five hundred dollars (\$7,500)*  
34 *nor more than fifteen thousand dollars (\$15,000).*

35 SEC. 7. Section 337j of the Penal Code is amended to read:

36 337j. (a) It is unlawful for any person, as owner, lessee, or  
37 employee, whether for hire or not, either solely or in conjunction  
38 with others, to do any of the following without having first  
39 procured and thereafter maintained in effect all federal, state, and  
40 local licenses required by law:



1 (1) To deal, operate, carry on, conduct, maintain, or expose for  
2 play in this state any controlled game.

3 (2) To receive, directly or indirectly, any compensation or  
4 reward or any percentage or share of the revenue, for keeping,  
5 running, or carrying on any controlled game.

6 (3) To manufacture, distribute, or repair any gambling  
7 equipment within the boundaries of this state, or to receive,  
8 directly or indirectly, any compensation or reward for the  
9 manufacture, distribution, or repair of any gambling equipment  
10 within the boundaries of this state.

11 (b) It is unlawful for any person to knowingly permit any  
12 controlled game to be conducted, operated, dealt, or carried on in  
13 any house or building or other premises that he or she owns or  
14 leases, in whole or in part, if that activity is undertaken by a  
15 person who is not licensed as required by state law, or by an  
16 employee of that person.

17 (c) It is unlawful for any person to knowingly permit any  
18 gambling equipment to be manufactured, stored, or repaired in  
19 any house or building or other premises that the person owns or  
20 leases, in whole or in part, if that activity is undertaken by a  
21 person who is not licensed as required by state law, or by an  
22 employee of that person.

23 (d) Any person who violates, attempts to violate, or conspires  
24 to violate this section shall be punished by imprisonment in a  
25 county jail for not more than one year, ~~or~~ and by a fine of not  
26 ~~more less than five thousand dollars (\$5,000), or by both that~~  
27 ~~imprisonment and fine two thousand five hundred dollars~~  
28 ~~(\$2,500) nor more than ten thousand dollars (\$10,000). A second~~  
29 ~~offense of this section is punishable by imprisonment in a county~~  
30 ~~jail for a period of not more than one year or in the state prison~~  
31 ~~and by a fine of not less than five thousand dollars (\$5,000) nor~~  
32 ~~more than ten thousand dollars (\$10,000).~~

33 (e) (1) As used in this section, “controlled game” means any  
34 poker or Pai Gow game, and any other game played with cards or  
35 tiles, or both, and approved by the Division of Gambling Control,  
36 and any game of chance, including any gambling device, played  
37 for currency, check, credit, or any other thing of value that is not  
38 prohibited and made unlawful by statute or local ordinance.

39 (2) As used in this section, “controlled game” does not include  
40 any of the following:

1 (A) The game of bingo conducted pursuant to Section 326.5.

2 (B) Parimutuel racing on horse races regulated by the  
3 California Horse Racing Board.

4 (C) Any lottery game conducted by the California State  
5 Lottery.

6 (D) Games played with cards in private homes or residences,  
7 in which no person makes money for operating the game, except  
8 as a player.

9 (f) This subdivision is intended to be dispositive of the law  
10 relating to the collection of player fees in gambling  
11 establishments. A fee may not be calculated as a fraction or  
12 percentage of wagers made or winnings earned. The amount of  
13 fees charged for all wagers shall be determined prior to the start  
14 of play of any hand or round. However, the gambling  
15 establishment may waive collection of the fee or portion of the  
16 fee in any hand or round of play after the hand or round has  
17 begun pursuant to the published rules of the game and the notice  
18 provided to the public. The actual collection of the fee may occur  
19 before or after the start of play. Ample notice shall be provided to  
20 the patrons of gambling establishments relating to the assessment  
21 of fees. Flat fees on each wager may be assessed at different  
22 collection rates, but no more than three collection rates may be  
23 established per table. However, if the gambling establishment  
24 waives its collection fee, this fee does not constitute one of the  
25 three collection rates.

26 SEC. 8. Section 337z of the Penal Code is amended to read:

27 337z. (a) Any person who violates Section 337u, 337v,  
28 337w, 337x, or 337y shall be punished as follows:

29 (1) For the first violation, by imprisonment in a county jail for  
30 a term not to exceed one year, ~~or and by a fine of not more less~~  
31 ~~than five thousand dollars (\$5,000), or by both that fine and~~  
32 ~~imprisonment nor more than ten thousand dollars (\$10,000).~~

33 (2) For a second or subsequent violation of any of those  
34 sections, by imprisonment in a county jail for a term not to  
35 exceed one year ~~or and by a fine of not more less than seven~~  
36 ~~thousand five hundred dollars (\$7,500) nor more than fifteen~~  
37 ~~thousand dollars (\$15,000), or by both that fine and~~  
38 ~~imprisonment.~~

1 (b) A person who attempts to violate Section 337u, 337v,  
2 337w, 337x, or 337y shall be punished in the same manner as the  
3 underlying crime.

4 (c) This section does not preclude prosecution under Section  
5 332 or any other provision of law.

6 SEC. 9. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the  
11 penalty for a crime or infraction, within the meaning of Section  
12 17556 of the Government Code, or changes the definition of a  
13 crime within the meaning of Section 6 of Article XIII B of the  
14 California Constitution.